

REMARKS

Applicants respectfully request entry of the amendments and remarks submitted herein.

As an initial matter, Applicants would like to thank Examiner King and Examiner Sheikh for the telephone interview on November 15, 2011. Applicants appreciate the helpful suggestions made by Examiners King and Sheikh with respect to the pending claims in view of the cited references.

The amendments herein include new independent claim 32. New independent claim 32 replaces previous claim 18, which has been canceled herein without prejudice to continued prosecution. Like previous claim 18, new claim 32 is directed toward a process of preparing a bakery product. New claim 32 also requires that the dough or batter lack whole egg. Support for this language can be found, for example, at paragraphs [0006] of the published application (US 2006/0233931). The amendments herein also include changing the dependencies of claims 19-23, 29 and 30 to reflect new claim 32.

In addition, claims 1-7, 9-18 and 24-28 directed toward the composition (i.e., the dry composition and the liquid composition) have been canceled herein without prejudice to continued prosecution. Applicants intend to pursue the composition claims in a separate application, but have removed them from the present application in the hopes of expediting prosecution of the remaining process claims.

Claims 19-23 and 29-32 are currently pending. Reconsideration of the pending application is respectfully requested.

The 35 U.S.C. §103 Rejections

Claims 1-4, 6, 9-15, 18-23, 25, 27 and 29-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sarneel (US 2002/0037351) in view of Takashima (US 2001/0055638) and Roberts (US Patent No. 4,103,038). Applicants note that claims 1-4, 6, 9-15, 18, 25 and 27 have been canceled herein without prejudice to continued examination. The obviousness

rejection of the remaining claims, claims 19-23 and 29-31, as well as new independent claim 32, is traversed as follows.

New independent claim 32 is directed toward a process of preparing a bakery product, and Applicants believe that new independent claim 32 captures a number of features disclosed in the present application and also discussed during the November 15, 2011, telephone interview.

For example, new claim 32 requires the use of the dry composition recited in previous claim 1 or the liquid composition recited in previous claim 6. Therefore, Applicants' arguments regarding the non-obviousness of the previously claimed compositions (both the particular ingredients and the claimed amounts) also apply to the process recited in new claim 32.

In addition, new claim 32 specifically recites that whole egg is not present in the batter or dough. As explained in the present disclosure, the use of Applicants' composition (i.e., 40-80% starch n-octenyl succinate and 10-40% whey protein with or without water or a water-miscible liquid) allows for a viable bakery product even in the complete absence of whole egg. See, for example, paragraphs [0006] and [0028] of the published application. The ability to completely replace whole egg in a bakery product is not obvious over the cited references. See also, paragraph [0005] of the published application.

Further, new claim 32 requires that the final bakery product have reduced cholesterol and extended shelf-life than a bakery product that includes whole egg. These benefits are provided because of the ability to remove whole egg from the bakery product. See, for example, paragraph [0024] in the published application.

New claim 32 requires a number of the novel and non-obvious features described in the present disclosure and discussed during the telephone call of November 15, 2011. Those features, at least those set forth above, are not obvious over the combination of references cited by the Examiner. Accordingly, in view of the amendments and remarks herein, Applicants respectfully request that the rejection of the pending claims under 35 U.S.C. §103(a) be withdrawn.

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Sarneel, Takashima and Roberts and further in view of Gisaw et al. (US Patent No. 6,558,730).

Without acquiescing to the Examiner's rejection, claim 5 has been canceled herein without prejudice to continued prosecution. Accordingly, Applicants respectfully submit that the rejection of claim 5 under 35 U.S.C. §103(a) is moot.

Claims 6, 7 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sarneel, Takashima and Roberts and in further view of "Sarneel 04" (WO 04/084640).

Without acquiescing to the Examiner's rejection, claims 6, 7 and 27 have been canceled herein without prejudice to continued prosecution. Accordingly, Applicants respectfully submit that the rejection of claims 6, 7 and 27 under 35 U.S.C. §103(a) is moot.

Claims 11, 16, 17, 26 and 28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sarneel, "Sarneel 909" (US Patent No. 6,663,909), Takashima and Roberts.

Without acquiescing to the Examiner's rejection, claims 11, 16, 17, 26 and 28 have been canceled herein without prejudice to continued examination. Accordingly, Applicants respectfully submit that the rejection of claims 11, 16, 17, 26 and 28 under 35 U.S.C. §103(a) is moot.

Double Patenting

Claims 11 and 26 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1, 4, 8 and 17 of US Patent No. 6,663,909 in view of US 2001/0055638.

Applicants respectfully requests that this rejection be held in abeyance until allowable subject matter is found. At that time, Applicants will consider submitting an appropriate Terminal Disclaimer.

CONCLUSION

Applicants respectfully request allowance of claims 19-23 and 29-32. No fees are believed to be due, as this Response to Office Action is being filed within the 3-month shortened statutory period for response. If this is incorrect, please apply any charges or credits to Deposit

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Respectfully submitted,

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